IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION No.25954 of 2003

Between:

B. Appanna, S/o. B. Ramanaiah, D/o. 40/11-15,
Dharma Nagar, Near: Ambedkar Reading Room,
Vizag.

..... PETITIONER

AND

1 The Chairman-cum-Managing Director,
Gredging Corporation of India Ltd., Visakhapatnam.
2 The Manager (P&A) (F.E.) Gredging Corporation of India Ltd.,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in discharging the petitioner from service vide Reference No. DC1/PAF/FE III/03-1763/2003, dated 09-10-2003 issued by the 2nd respondent as arbitrary, illegal and opposed to principles of law and consequently direct the respondents to reinstate the petitioner into service with all consequential benefits.

Counsel for the Petitioner:MR.P.RAVI SANKAR

Counsel for the Respondents: Mr.A.Rajasekhar Reddy

The Court made the following:

ORAL ORDER:-

This Writ Petition is filed against the order, dated 09.10.2003, passed by the 2nd respondent vide reference No.DCI/PAF/FE III/03-1763/2003 in discharging the petitioner from service.

The case of the petitioner is that he underwent Angioplasty operation on 18.11.2002 at Apollo Hospital, Visakhapatnam, and thereafter, he reported to the duty. On 06.01.2003, he was sent to medical examination and the doctor issued a certificate stating that he is fit for duty. Thereafter, he was sent to Mumbai for further medical examination by Dr.Ranabir Singh, who issued a certificate stating that the petitioner was unfit for discharging his duties. Thereafter, on 04.09.2003 the petitioner was again directed to appear before the Deputy Manager, D.C.I. Limited at Mormugao, Goa. As per the directions, the petitioner appeared before the said authority, who in turn directed him to appear for a further medical examination vide reference No.DCI/GOA/Admn./2003/74, dated 04.09.2004, and the petitioner also attended the medical examination on 15.09.2003. Except Dr.Ranabir Singh, all other doctors, who are the eminent Cardiologists, examined the petitioner certified that he was fit for duty. When the petitioner is suffering, the respondents did not give any posting to him even in the stores or various other departments and without considering alternative employment, thrown him out of the employment on medical grounds, is arbitrary and illegal.

A detailed counter-affidavit has been filed by the respondents stating that as per the Merchant Shipping Medical Examination Rules, 2000 (for short “the Rules”), when a person is suffering from Myocardial infarction, acute, Angina pectoris, he is unfit for sea service permanently. According to the respondents, the petitioner is having

history of Inferior Wall Myocardial Infraction and he had undergone Coronary Angioplasty during October, 2002 and therefore, the ailment of the petitioner is covered by the guidelines issued by the Director General of Shipping under condition No.7 (e) of the Rules. The certificates issued by the doctors cannot be taken as fitness certificates for the purpose of sea service and therefore, there are no grounds to grant any relief to the petitioner.

The learned counsel appearing for the petitioner contended that all the doctors, who are eminent cardiologists, examined the petitioner and issued certificates stating that he was fit for duty and therefore, discharging him permanently from service is unjustified and he is liable to be reinstated into the service.

On the other hand, the learned counsel for the respondents contended that as per condition 7 (e) of the Rules, if a person is suffering with Myocardial infarction, he cannot be fit for discharging of duties on sea and therefore, the petitioner was rightly discharged from the duties on medical grounds. Therefore, the action of the respondents does not require any interference of this Court.

As per the Rules issued by the Director General of Shipping, dated 20.01.2001, if a person is suffering with Myocardial infarction, acute, Angina pectoris, he is unfit for duty permanently for sea service. The fact that the petitioner underwent Coronary Angioplasty on 18.11.2002 at Apollo Hospital, Visakhapatnam, is not in dispute. The certificates filed along with the Writ Petition, no doubt, show that the petitioner is fit for discharging his duties, but at the same time it is the fact that the petitioner is suffering from Myocardial infarction, which is included under the Rules, is considered to be unfit on medical grounds insofar as sea service is concerned, but that does not mean that the petitioner cannot be accommodated with other post other than the sea service. Even according to the petitioner, there are other posts in stores and various departments in the respondents' organization where the petitioner can be accommodated.

Under these circumstances, without expressing any opinion with regard to the

merits of the case, the Writ Petition is disposed of with a direction to the respondents to consider the case of the petitioner in posting him to the stores or other various departments suitable to the post hold by the petitioner. This exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No orders as to costs.

However, it is made clear that the petitioner can put his entire grievance before the respondents and thereafter the respondents can take appropriate decision.

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22-06-2005

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To

1 The Chairman-cum-Managing Director,
Gredging Corporation of India Ltd., Visakhapatnam.
2 The Manager (P&A) (F.E.) Gredging Corporation of India Ltd.,
Visakhapatnam.

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